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15 Direct Purchaser Plaintiffs

16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

19 IN RE: CATHODE RAY TUBE (CRT)
20 ANTITRUST LITIGATION

21 Master File No. 07-CV-5944-JST

22 MDL No. 1917

23 This Document Relates To:

24 ***ALL DIRECT PURCHASER ACTIONS***

25 **DIRECT PURCHASER PLAINTIFFS'**
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER ANOTHER
PARTY'S MATERIAL SHOULD BE
SEALED PURSUANT TO CIVIL LOCAL
RULES 7-11 AND 79-5(f)

1 Pursuant to Civil Local Rules 7-11 and 79-5(f), Direct Purchaser Plaintiffs (“DPPs”) hereby
 2 move the Court to consider whether another party’s material should be sealed.

3 DPPs have reviewed and complied with this Court’s Standing Order Governing
 4 Administrative Motions to File Materials Under Seal Before District Judge Jon S. Tigar (Nov. 10,
 5 2021) and Civil Local Rule 79-5.

6 DPPs propose to seal or redact the following documents or portions thereof:

7 Document Proposed to Be Sealed or Redacted	8 Designating Entity
9 Gray highlighted portions of DPPs’ Notice of Motion 10 and Motion for Class Certification with Respect to the 11 Irico Defendants; Memorandum of Points and 12 Authorities in Support thereof that contain quotations or information from documents submitted in support of DPPs’ Motion for Class Certification with Respect to the Thomson and Mitsubishi Defendants.	13 Documents sealed by prior Order [ECF No. 3498]
14 Gray highlighted portions of DPPs’ Notice of Motion 15 and Motion for Class Certification with Respect to the 16 Irico Defendants; Memorandum of Points and 17 Authorities in Support thereof that contain quotations or information from the Expert Report of Dr. Phillip M. Johnson containing information from documents that Defendants have designated “Confidential” or “Highly Confidential.”	18 All Defendants
19 Gray highlighted portions of DPPs’ Notice of Motion 20 and Motion for Class Certification with Respect to the 21 Irico Defendants; Memorandum of Points and Authorities in Support thereof that contain quotations or information from the Deposition of Jing Song Lu.	22 Chunghwa
23 Exhibit A to the Declaration of R. Alexander Saveri in 24 Support of DPPs’ Motion for Class Certification with Respect to the Irico Defendants – Deposition Testimony of Jing Song Lu.	25 Chunghwa
26 The Expert Report of Dr. Phillip M. Johnson, PhD.	27 All Defendants

28 Civil Local Rule 79-5 governs the filing under seal of documents in civil cases. In
 compliance with Civil Local Rule 79-5(f), DPPs submit this Administrative Motion because they

1 wish to file documents that contain either (a) material designated by a Defendant pursuant to a
 2 Protective Order as “Confidential” or “Highly Confidential”; or (b) analysis of, references to, or
 3 information taken directly from material designated by a Defendant pursuant to a Protective Order
 4 as “Confidential” or “Highly Confidential.”

5 DPPs seek to file the above material under seal in good faith in order to comply with the
 6 Protective Order in this action and the applicable Local Rules. Because certain defendants and
 7 various third parties contend that the material they have designated is confidential in nature, it is
 8 their burden to establish that the designated information is sealable. Civil L.R. 79-5(c) & (f); see
 9 *Kamakana v. City of Honolulu*, 447 F.3d 1172, 1178-80 (9th Cir. 2006). DPPs leave it to this
 10 Court’s discretion to determine whether the above material should be filed under seal. Courts have
 11 repeatedly emphasized that a party must make a “particularized showing of good cause” and show
 12 a “compelling reason” to justify the sealing of motions and papers filed with a court. *See Foltz v.*
 13 *State Farm Mutual Auto. Ins. Co.*, 331 F.3d 1122, 1138 (9th Cir. 2002) (reversing the lower court’s
 14 sealing of records because there was no “compelling reason to justify sealing” under the protective
 15 order). As the Ninth Circuit has stated, the “hazard of stipulated protective orders” is that they
 16 “often contain provisions that purport to put the entire litigation under lock and key without regard
 17 to the actual requirements of Rule 26(c).” *Kamakana*, 447 F.3d at 1193. Plaintiffs note that two
 18 expert reports containing extensive discussion of the documentary evidence in this case as well as
 19 statistical analysis of Defendants’ data have been publicly filed in this action. ECF No. 5191-2, Ex.
 20 A, D.

21 WHEREFORE, Direct Purchaser Plaintiffs respectfully submit this administrative motion
 22 pursuant to the Protective Order and Civil Local Rule 79-5(f) and hereby notify the parties of their
 23 burden to establish that the designated material is sealable.

24 DATED: November 19, 2021

25 Respectfully Submitted,

26 /s/ R. Alexander Saveri
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